



02-17-03

PATENT
DP-305565

DAE *[Signature]*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bryan P. Riddiford et al.)
Docket No.: DP-305565) Examiner: Williams, Thomas J
Serial No.: 10/081,122)
Filed: February 22, 2002) Art Unit: 3683
Title: FAST RELEASE MODE IN A FORCE)
GENERATING APPARATUS) Confirmation Code: 8542

Mail Stop Petition
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.183

Dear Sir or Madam:

Applicants respectfully petition, under the provisions of 37 CFR 1.183, for waiver or suspension of rules not otherwise provided for, in connection with the Office's untimely processing and consideration of the response to the Final Office Action dated June 2, 2004, and request the terminal disclaimer submitted herewith be deemed filed within the period for response to the Final Office Action, thereby enabling the examiner to withdraw all claim rejections cited in the Final Office Action and allow the pending claims. A notice of abandonment in the present application has not yet been issued by the Office.

Responsive to the June 2, 2004, Final Office Action, in which claims 6-13 and 15-17 were subjected to a judicially created double patenting rejection over claims 6-13 and 15-17 of U.S. Patent No. 6,655,756 (Riddiford et al.) in view of U.S. Patent No. 5,496,102 (Dimatteo et al.), Applicants timely filed, on June 8, 2004, a terminal disclaimer executed by the undersigned attorney to overcome the rejection. The transaction history of the present application provided on the Office's PAIR website indicates that the terminal disclaimer filed June 8, 2004, was received by the Office on June 10, 2004, as does the stamped return post card that had been submitted with that terminal disclaimer (copy enclosed).

In a telephone call received from the Examiner by the undersigned in late December, 2004, the Examiner explained that the terminal disclaimer filed June 8, 2004,

02/18/2005 EFLQRES 00000035 500831 10081122

01 FC:1464 130.00 DA
Adjustment date: 02/23/2005 EFLQRES

02/18/2005 EFLQRES 00000035 500831 10081122
01 FC:1464 130.00 CR

02/23/2005 EFLQRES 00000147 500831 10081122
01 FC:1462 400.00 DA

was forwarded to a paralegal at the Office for review, but for reasons unknown was not timely processed thereby. The Examiner explained that because the undersigned attorney was not named in a power of attorney filed in the application, the terminal disclaimer filed June 8, 2004, was not accepted by the paralegal. The paralegal's review and rejection of the terminal disclaimer, however, was not timely performed.

The transaction history indicates that the paralegal's rejection of the terminal disclaimer did not occur until December 21, 2004, six months and 11 days after receipt of the terminal disclaimer by the Office, and well after expiration of the period for response to the June 2, 2004, Final Office Action. An Advisory Action dated January 13, 2005, was issued notifying Applicants that the terminal disclaimer filed June 8, 2004, had not been approved, and stating that a new terminal disclaimer should be filed with a statement under 37 CFR 3.73(b). That new terminal disclaimer is submitted herewith.

Although it was eventually deemed insufficient by the paralegal, Applicants submit that the terminal disclaimer expeditiously filed June 8, 2004, constituted a *bone fide* response to the Final Office Action which could have been corrected had the Office conducted its review of that terminal disclaimer and notified Applicants of its insufficiency prior to expiration of the period for response to the Final Office Action.

Applicants submit that the Office's belated review of the terminal disclaimer expeditiously filed on June 8, 2004, until December 21, 2004, more than six months after its receipt of this document on June 10, 2004, and after the December 2, 2004, deadline by which further action by the Applicants may be taken to avoid abandonment of the application, is an extraordinary situation for which the requirements of the regulations in 37 CFR make no provision by which Applicants can now avoid abandonment of the application. Applicants submit that in this instance such a result is unjust.

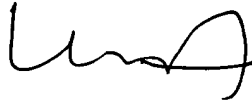
Applicants therefore respectfully request the Director or the Director's designee to suspend or waive the requirements of the regulations of 37 CFR to now permit entry and consideration of the terminal disclaimer submitted herewith, thereby enabling the examiner to withdraw all claim rejections cited in the Final Office Action and allow the pending claims, and preclude abandonment of the application.

Applicants request that the \$130.00 petition fee called for under 37 CFR 1.17(h) in connection with this petition under 37 CFR 1.183, and the \$130.00 statutory disclaimer

fee called for under 37 CFR 1.20(d) in connection with the terminal disclaimer submitted herewith, be charged to Deposit Account No. 50-0831, Delphi Technologies, Inc.

In the event the Director or the Director's designee deems an extension of time is warranted in connection with this submission, Applicants hereby petition therefor and request and authorize that the payment of any fee in connection therewith also be charged to Deposit Account No. 50-0831, Delphi Technologies, Inc.

Respectfully submitted,



Michael D. Smith
Registration No. 40,181

Attorney for Applicants

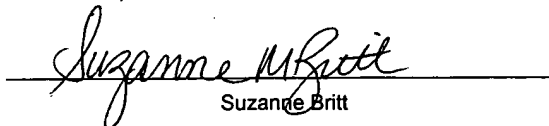
Delphi Technologies, Inc.
Legal Staff, M/C 480-410-202
P.O. Box 5052
Troy, MI 48007-5052

February 14, 2005

Enc. Copy of Stamped Post Card
New Terminal Disclaimer
Transaction History
Post Card

CERTIFICATE OF MAILING

The undersigned hereby certifies that this document is being deposited with the United States Postal Service in an envelope as first class mail addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


Suzanne Britt

2-14-05
Date



RECEIVED/DELPHI
JUN 16 2004
Legal Staff



DELPHI TECHNOLOGIES, INC.
LEGAL STAFF
P.O. Box 5052
Mail Code: 480-410-202
Troy, MI 48007-5052

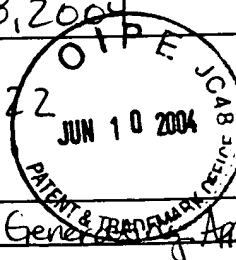
08



Inv. No. DP-305565 Date June 8, 2004

PLEASE STAMP SERIAL NO.
AND DATE RECEIVED
AND RETURN TO US

101 081,172



Applicant: DTI

Title: FAST Release MODE in a FORCE Generating Apparatus

No. of Spec. pp: _____ Claims: _____ Sheets of Drwgs: _____

Declaration: _____ Assignment: _____

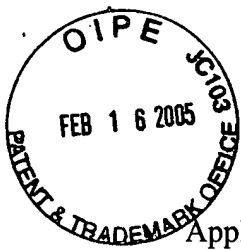
Power of Attorney _____ Information Disclosure Statement _____

Deposit Acct. 50-0831 Amount _____

Missing Parts: Yes _____ No _____

Prepared by: Smith*

2pg. Terminal Disclaimer



PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|---------------------------------------|--------------------------------|
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| Docket No.: DP-305565 |) Examiner: Williams, Thomas J |
| Serial No.: 10/081,122 |) |
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| Title: FAST RELEASE MODE IN A FORCE |) |
| GENERATING APPARATUS |) Confirmation Code: 8542 |

TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION (37 CFR 1.321(c))

Mail Stop Petition
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir or Madam:

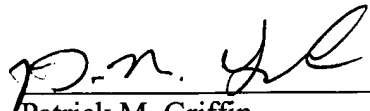
DISCLAIMER

The owner, Delphi Technologies, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156, and 173, as presently shortened by any terminal disclaimer, of US Patent No. 6,655,756. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and US Patent No. 6,655,756 are commonly owned. This agreement runs with any patent granted on the instant application, the entire right, title and interest of which is owned by Delphi Technologies, Inc. by virtue of an assignment recorded in the United States Patent and Trademark Office on April 12, 2002, at Reel 012806, Frame 0982, and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156, and 173 of the patent forming the basis of the double patenting rejection(s), namely, US Patent No. 6,655,756, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned is empowered to act on behalf of Delphi Technologies, Inc. The undersigned hereby declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the instant application or any patent issued thereon.

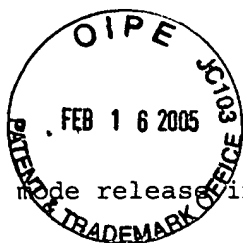
Respectfully submitted,



Patrick M. Griffin
Assistant Secretary

Delphi Technologies, Inc.
Legal Staff, M/C 480-410-202
P.O. Box 5052
Troy, MI 48007-5052

Date: 2-14-05



Printer Friendly

10/081,122

Fast mode release in a force generating apparatus

Transaction History

| Date | Contents Description |
|------------|--|
| 01-13-2005 | Mail Advisory Action (PTOL - 303) |
| 01-10-2005 | Advisory Action (PTOL-303) |
| 01-07-2005 | Date Forwarded to Examiner |
| 06-10-2004 | Amendment after Final Rejection |
| 12-21-2004 | Paralegal TD Not accepted |
| 06-10-2004 | Terminal Disclaimer Filed |
| 06-02-2004 | Mail Final Rejection (PTOL - 326) |
| 05-27-2004 | Final Rejection |
| 04-08-2004 | Date Forwarded to Examiner |
| 03-26-2004 | Response after Non-Final Action |
| 01-06-2004 | Mail Non-Final Rejection |
| 12-23-2003 | Non-Final Rejection |
| 10-31-2003 | Date Forwarded to Examiner |
| 10-31-2003 | Date Forwarded to Examiner |
| 09-16-2003 | Request for Continued Examination (RCE) |
| 10-31-2003 | DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA) |
| 09-16-2003 | Workflow - Request for RCE - Begin |
| 06-16-2003 | Mail Final Rejection (PTOL - 326) |
| 06-16-2003 | Final Rejection |
| 04-23-2003 | Date Forwarded to Examiner |
| 04-14-2003 | Response after Non-Final Action |
| 01-24-2003 | Mail Non-Final Rejection |
| 01-22-2003 | Non-Final Rejection |
| 06-21-2002 | Case Docketed to Examiner in GAU |
| 02-22-2002 | Information Disclosure Statement (IDS) Filed |
| 05-14-2002 | Application Dispatched from OIPE |
| 05-13-2002 | Application Is Now Complete |
| 04-12-2002 | Payment of additional filing fee/Preexam |
| 04-12-2002 | A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic |
| 03-25-2002 | Notice Mailed--Application Incomplete--Filing Date Assigned |
| 03-06-2002 | IFW Scan & PACR Auto Security Review |
| 02-22-2002 | Initial Exam Team nn |

[Close Window](#)